UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/47/651
13 November 1992

ORIGINAL: ENGLISH

Forty-seventh session
Agenda item 97 (c)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Myanmar

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the preliminary report prepared by Professor Yozo Yokota (Japan), Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, in accordance with paragraph 3 of Commission resolution 1992/58 of 3 March 1992 and Economic and Social Council decision 1992/235 of 20 July 1992.

ANNEX

Preliminary report on the situation of human rights in Myanmar prepared by Professor Yozo Yokota, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1992/58

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I. INTRODUCTION

1. On 3 March 1992, at its forty-eighth session, the Commission on Human Rights adopted resolution 1992/58, entitled "Situation of human rights in Myanmar". In that resolution, the Commission noted that in accordance with the Charter, the United Nations promotes and encourages respect for human rights and fundamental freedoms for all, and that the Universal Declaration of Human Rights states that "the will of the people shall be the basis of the authority of government"; noted also with particular concern in that regard that the electoral process initiated in Myanmar by the general elections of 27 May 1990 had not yet reached its conclusion, that no apparent progress had been made in giving effect to the political will of the people of Myanmar, as expressed in the elections, and that the final results of the elections had not even been officially released; also noted that many political leaders, in particular elected representatives, remained deprived of their liberty and that Daw Aung San Suu Kyi was still under house arrest; and noted with concern the seriousness of the situation of human rights in Myanmar, the existence of important restrictions on the exercise of fundamental freedoms and the imposition of oppressive measures directed, in particular, at minority groups and the continuing exodus of Myanmar refugees to neighbouring countries, including Myanmar Muslim refugees to Bangladesh.

2. By paragraph 3 of resolution 1992/58, the Commission on Human Rights decided to nominate a Special Rapporteur to establish direct contacts with the Government and with the people of Myanmar with a view to examining the situation of human rights in Myanmar and to report to the General Assembly at its forty-seventh session and to the Commission on Human Rights at its forty-ninth session.

3. After consultation with the Bureau, the Chairman of the Commission on 10 June 1992 appointed Professor Yozo Yokota (Japan) as Special Rapporteur on the situation of human rights in Myanmar, pending approval of Commission resolution 1992/58 by the Economic and Social Council.

4. At its session of 20 July 1992, the Economic and Social Council adopted decision 1992/235 approving Commission resolution 1992/58.

5. The present preliminary report is submitted to the Secretary-General of the United Nations for dissemination to all States Members of the United Nations.

II. BACKGROUND

A. General

6. The situation of human rights in Myanmar was first considered by the Commission on Human Rights at its forty-sixth session, in 1990, under the procedure established by Economic and Social Council resolution 1503, after

having been considered by the Subcommission on the Prevention of Discrimination and Protection of Minorities at its fortieth and forty-first sessions, in 1988 and 1989, respectively. The Commission continued in 1991 its consideration of the situation in Myanmar under the procedure established in resolution 1503.

7. As mentioned above, the Commission decided at its forty-eighth session to appoint a Special Rapporteur to examine the situation of human rights in Myanmar and to report to the next sessions of the General Assembly and the Commission on Human Rights. The Commission also charged the Special Rapporteur with the expressed tasks of following any progress made towards the transfer of power to a civilian government and the drafting of a new constitution, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar.

B. Chronology of events pertinent to the situation

8. In 1948 the Union of Myanmar (then called Burma) gained its independence from British colonial rule. From 1948 until 1962, the country was governed by a parliamentary democracy based on the Constitution of 2 September 1947.

9. The Constitution was drafted by consensus among the Barmar ("ethnic Burmans" who comprise approximately two thirds of the population) and most of the ethnic minorities, including the Shan, Rakhine, Kayin (Karen), Mon, Kachin, Chin, Karenni and Pa-o. It provided for a federal system of government with separate executive, legislative and judicial branches. The states, while belonging to the Union, were considered autonomous.

10. According to article 201 of the Constitution, ethnic minorities had, in theory, the right to secede from the Union, but, under article 202, that right was not to be exercised until 10 years from the date of entry into force of the Constitution.

11. In March 1948, an armed insurgency against the then Government of Burma was begun by the Communist Party of Burma. From 1948 until 1961, various minority ethnic groups joined the armed insurgency.

12. In March 1962, General Ne Win took power in a coup d'état. He installed a one-party (Burma Socialist Programme Party) military regime with military tribunals and courts and operated without a constitution. He embarked upon a programme known as the "Burmese Way to Socialism".

13. On 28 March 1964, the Law to Protect National Unity was promulgated, banning all political parties except the Burma Socialist Programme Party.

14. In 1974, a new Constitution was drafted. However, one-party rule continued.

15. By 1988, widespread dissent and demonstrations began in reaction to two factors, firstly, the suppression of all civil and political rights since the 1962 overthrow of the constitutional Government; and secondly, the economic failure caused by the Burmese Way to Socialism. The economy was in crisis. In September 1987, the major currency notes had been demonetized and approximately 70 per cent of all currency in circulation had been rendered valueless. There were also severe shortages of domestic goods and the country, once one of the world's major rice producers and exporters, lost its capacity to maintain its international market.

16. From March to June 1988, serious clashes between students and workers and the military took place. Hundreds of civilians were arrested, many were severely injured or died from ill-treatment in detention and many persons were summarily or arbitrarily executed. On 21 June 1988, the Government imposed a ban on all public gatherings.

17. On 23 July 1988, General Ne Win resigned as party leader, promising economic reform and the holding of a referendum to end one-party rule and institute a multi-party system.

18. Clashes continued between demonstrators and the army and riot police (Lon Htein). It is reported that between 8 August, when a nationwide strike was held, and 12 August approximately 3,000 persons were killed. All educational institutions were closed.

19. On 18 September 1988, the military took power. The State Law and Order Restoration Council (SLORC) was set up under the chairmanship of the Chief of Staff, Senior General Saw Maung.

20. The National Assembly (Pyithu Hluttaw), the Council of State and other governmental bodies were dissolved. Senior General Saw Maung became Prime Minister, Minister of Foreign Affairs and Minister of Defence.

21. Free elections were promised by SLORC. In response, three main opposition parties were established: the National League for Democracy (NLD), the National Unity Party (NUP, reconstituted from the Burmese Socialist Programme Party) and the League for Democracy (LDP).

22. On 23 September 1988, Senior General Saw Maung, as Chairman of SLORC, made a statement 1/ to the effect that three conditions for the holding of elections would have to be met:

> "1. Maintenance of law and order.
>
> "2. Providing smooth and secure transportation.
>
> "3. The State Law and Order Restoration Council will strive for better conditions of food, clothing and shelter of the people and render necessary assistance to the private sector and the cooperatives to do so."

23. In 1988, Daw Aung San Suu Kyi, daughter of U Aung San (the national hero of independence) and General Secretary of the National League for Democracy, was banned from campaigning on the grounds that she maintained unlawful association with insurgent organizations.

24. On 20 July 1989, Daw Aung San Suu Kyi was detained by government forces. Numerous other political leaders, including most of the important opposition to SLORC, were also arbitrarily detained and many of them remain so to date.

25. In May 1990, general elections were held. Widespread allegations of irregularities were reported. Nevertheless, the opposition (NLD) was reliably reported to have won the elections overwhelmingly.

26. SLORC set up an Election Commission to scrutinize the results of the elections and all expense accounts of all elected representatives. When this process is completed (SLORC has stated it does not want to rush the Commission), the winners of the elections will be announced and certificates to the winners will be issued.

27. A Constitutional Convention to decide the terms of the drafting of the constitution has been announced by SLORC with the participation of all parties. According to SLORC Order No. 11/92 of 24 April 1992 and citing SLORC Declaration No. 1/90 of 27 July 1990 (contained in Government of Myanmar Press Release No. 82, dated 26 June 1992), and according to SLORC Order No. 9/92 dated 28 May 1992, SLORC, through its Steering Committee, was given responsibility for preparation of the Coordination Meeting for the Convening of the National Convention. Leaders of lawfully existing political parties were to attend in numbers as designated by the Steering Committee. The nomination list of those representatives was to be sent to the Steering Committee 11 days prior to the meeting. The Steering Committee was given responsibility for inviting those elected individual representatives "standing lawfully" on the day the Order (28 May 1992) was issued. The Steering Committee was deemed responsible for determining the programmes related to the holding of the meeting, the topics to be discussed, determining the procedures, determining as necessary the daily and travel allowances of the representatives attending the meeting, submitting the report on the meeting to SLORC within one month of the meeting and carrying out all administrative functions.

28. Beginning in early 1992, a mass exodus of Myanmar Muslims from Northern Rakhine State into Bangladesh was reported. At least 250,000 such persons are reliably reported to have sought refuge for fear of persecution. On 28 April 1992, the Governments of Myanmar and Bangladesh signed an agreement for the safe, voluntary return of the refugees. The repatriation programme has been suspended at present as the refugees appear unwilling to return to Myanmar without adequate international monitoring. According to some reports, however, including government announcements, a small number of refugees have recently spontaneously returned.

C. The legal framework

29. As a Member State of the United Nations, the Union of Myanmar is bound to respect the human rights obligations contained in the Charter. Those obligations are expressed in the Preamble, Article 1 (c) and Article 55 (c). Further specificity to those obligations has been provided by, inter alia, the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)); the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (resolution 1904 (XVIII)); the Declaration on the Elimination of Discrimination against Women (resolution 2263 (XXII)); the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (resolution 36/55); the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 3452 (XXX)); the Declaration on the Rights of the Child (resolution 1386 (XIV)); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict (resolution 3318 (XXIX)). In addition to its obligations under the Charter of the United Nations, other conventional obligations include those arising under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the 1926 Slavery Convention (as amended by its Protocol of 7 December 1953), and the 1989 Convention on the Rights of the Child. It is also to be noted that Myanmar is a member of the International Labour Organisation (ILO) and is a party to its conventions concerning forced labour (No. 29) and concerning freedom of association and protection of the right to organize (No. 87).

30. On 24 August 1992, the Union of Myanmar acceded to the four Geneva Conventions of 1949 relative to the humanitarian laws of armed conflict. The treaty obligations undertaken by ratification are not retroactive in nature and may not be applied to actions that allegedly occurred prior to ratification.

31. In addition to its treaty obligations, Myanmar is obliged to respect the relevant rules of international customary law together with applicable general principles of law. Among these may be said to be the guarantees of article 3, common to the four Geneva Conventions of 1949, which, according to the International Court of Justice, reflect "certain general and well-recognized principles, namely: elementary considerations of humanity, even more exacting in peace than in war". 2/ Thus, the fundamental guarantees contained in common article 3 are applicable in all situations pertaining in the Union of Myanmar.

32. The Union of Myanmar is not a party to the International Covenant on Civil and Political Rights and its Optional Protocol nor to the International Covenant on Economic, Social and Cultural Rights, nor is it a party to the 1951 Convention relating to the Status of Refugees or to the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

III. MEMORANDUM OF THE SPECIAL RAPPORTEUR TO THE GOVERNMENT OF MYANMAR

33. The following questions were addressed to the Government of Myanmar by the Special Rapporteur:

(a) With regard to preparations for the National Convention for drafting a new democratic state constitution, please indicate the nature and advancement of these preparations and in particular: the members of the Steering Committee that will steer the holding of the Coordination Meeting for the Convening of the National Convention; the purpose of the Coordination Meeting; which political parties and how many members from each party will participate; how it is determined if these parties and each individual representative from each party is "lawfully standing" (as prescribed by SLORC Order No. 9/92 dated 28 May 1992); what the role and competency will be of the Steering Committee in the preparation, holding and aftermath of the Meeting and the Convention; the projected timetable for the holding of the Convention; the projected timetable for the drafting of the new constitution and the projected timetable for the transfer of power to a civilian government?

(b) With regard to the political leaders deprived of liberty, would the Government please provide: a copy of the list of persons in detention and of those released during the course of 1992 indicating which among these persons were/are active members of their political parties and those who stood for the general elections; the charges brought in each case of arrest or detention; whether the person was brought before a magistrate prior to trial and within how much time subsequent to arrest; whether a trial was held for each case of detention or arrest; how the courts were constituted and what the trial procedures are under the law; whether pre-trial and/trial counsel were provided; what provisions for notification of detention to relatives exist under the law; whether each detainee was or is allowed visits by relatives and a lawyer; whether final sentence was passed in each case and who is responsible for determining the length and kind of sentence according to what provision of law?

(c) The recent decision of the Government of Myanmar to sign and ratify the four Geneva Conventions of 1949 is highly welcomed. What steps have been taken to adhere to the two Protocols Additional to the Geneva Conventions, particularly the Second Protocol Additional to the Conventions? Please indicate any steps taken to adhere to any of the international human rights instruments, particularly the Covenants on Civil and Political Rights and on Social, Cultural and Economic Rights and the Convention on Torture.

(d) Concerning the Muslim people of Northern Arakan State: please indicate what is the residency status under law of this population (i.e., citizens, legal residents, immigrants, illegal residents); what provision(s) of law determine(s) this status; what provision(s) of law provide(s) for freedom of religious belief and religious expression and to what extent is religious expression limited under the law? Please explain the reasons for the flow of the Muslim population from Arakan State to Bangladesh and why the

flow has greatly increased in the last year; the problem of "human traffic"; the bilateral solutions undertaken by the Government of Myanmar to stop the movement of this population to Bangladesh; how many persons have returned or been repatriated to Myanmar from Bangladesh and the aid provided by the Government of Myanmar to those who have returned to Myanmar.

(e) Please describe any other recent steps taken by the Government of Myanmar in the field of human rights that the Government wishes to bring to the attention of the Special Rapporteur.

IV. RESPONSE OF THE GOVERNMENT OF MYANMAR TO THE MEMORANDUM OF THE SPECIAL RAPPORTEUR

34. The following responses to the Special Rapporteur's memorandum were received:

(a) On 26 October 1992, the Government of Myanmar responded by a note verbale that with regard to allegations of ill-treatment of the ethnic and religious minorities by the Myanmar armed forces and the paramilitary security forces, the Government rejected the allegations as untrue. They responded that those forces were required by law to observe a strict code of conduct. With regard to other allegations of ill-treatment of porters by the armed forces, the Government responded that investigations revealed those allegations to be unsubstantiated and unfounded; with regard to detentions of persons, action was said to have been taken for violations of existing laws.

(b) On 23 October 1992, the Government responded to the memorandum of the Special Rapporteur (and on 26 October 1992 it again responded completing its answers to the memorandum). The full text of that response is contained in the appendix to the present report. (With regard to the annexes supplementing the responses of the Government of Myanmar and citing the pertinent SLORC Orders, these documents are maintained by the secretariat and are available for consultation upon request.)

V. PROPOSED VISIT TO MYANMAR BY THE SPECIAL RAPPORTEUR

35. The Special Rapporteur has envisaged a visit to Myanmar from 7 to 15 December 1992. He has requested the honour of audiences with high governmental officials, meetings in circumstances providing confidentiality with political leaders, including those in detention or under restriction such as Daw Aung San Suu Kyi, and full and free access to other individuals, non-governmental and intergovernmental organizations that may be deemed necessary to carry out the mandate of the Rapporteur. Unrestricted visits to prisons and other centres of detention have also been requested.

36. The Rapporteur has further requested full access to all areas of the country in which information may be gathered that is deemed necessary for the completion of his mandate.

37. The Rapporteur has also envisaged carrying out visits to Thailand (from 5 to 7 December 1992) and Bangladesh (from 15 to 18 December 1992) for the purpose of gathering information and testimony from refugees regarding the situation in the country of origin (Myanmar), as well as from other individuals and groups who may provide information pertinent to the situation of human rights in Myanmar.

38. As regards the situation of human rights in Myanmar, which will be examined carefully by the Special Rapporteur during his visit, the Special Rapporteur has been made aware of hundreds of cases of violations of human rights that have been received by the United Nations Centre for Human Rights alleged to have occurred in Myanmar. Many of these allegations have been channelled to the Special Rapporteurs or Working Groups on thematic issues as follows.

A. Arbitrary detention

39. The United Nations Centre for Human Rights has received information concerning 914 cases of alleged arbitrary detentions reported to have occurred in Myanmar. The persons reportedly detained include members of Parliamant, political party leaders, writers, students, business persons, teachers, Buddhist monks, civil servants, farmers and peddlers.

40. In cases where the legislative basis for detention has been indicated, section 10 (a) of the 1975 State Protection Law, section 5 (j) of the Emergency Provisions Act, section 17.1 or 17.2 of the Unlawful Association Act, section 19.1 of the Provisional Arms Act and the Printers and Publishing Law have most frequently been cited.

41. According to information provided by the Government of Myanmar, 427 persons previously under detention have been released since April 1992 in accordance with Declaration 11/92.

42. The Special Rapporteur was informed that in the case of Daw Aung San Suu Kyi, the Government of Myanmar has allowed the family to visit her in restrictive detention and to bring necessary foodstuffs.

B. Disappearances

43. The Working Group on Enforced or Involuntary Disappearances maintains files on two outstanding cases of enforced or involuntary disappearances alleged to have occurred in Myanmar as well as one case clarified in 1992 by the Government of Myanmar. In addition, the Working Group has been seized of numerous other cases in which the relatives of the disappeared persons have been unable, or have felt too intimidated, to provide all essential elements necessary for the Working Group to process the cases under the Working Group's methods of work. A preponderance of cases received allege that victims belong primarily to the Muslim population of Northern Rakhine State and to the Karen community.

44. Cases of disappearances have allegedly occurred in the context of forced relocations of entire villages by the army, round-ups reportedly for forced recruitment of porters or minesweeps for the army or for recruitment of young men to serve in the army. It has been reported that in many cases the males have either already been recruited or fled for safety at the approach of the army. In such cases, the women and young girls have been left at considerable risk and many of the alleged violations concern this vulnerable group.

45. One example is the case of a 12-year-old girl from Bawli Bazaar, Akyab, Northern Rakhine State. In January 1992, allegedly during a period of increased forced recruitment of civilians by the army to build roads and level hills, five soldiers came to the girl's family home reportedly to recruit males. Upon finding the young girl, it is alleged the five soldiers took turns raping her and then abducted her. She has not been heard of since despite a long search undertaken by her family.

C. Torture, cruel, inhuman or degrading treatment

46. The Centre for Human Rights has been seized of more than 100 well-documented cases of alleged torture or cruel, inhuman or degrading treatment alleged to have been committed by the SLORC army in the context primarily of forced recruitment and forced labour. Again, the preponderance of cases, particulary those alleged to have occurred in 1992, pertain to victims belonging to the Muslim population of the Northern Rakhine State as well as those belonging to the Karen community.

47. Examples of torture include cases such as porters being forced to carry loads they cannot bear. When they are too sick or weak to continue, they are allegedly beaten with rifle butts, kicked and left by the wayside. Those too weak to move have reportedly been burned alive and any who survive have been left to die.

48. In another reported case, soldiers from the 82nd Company based in Thentarang Camp went through the Hangdaung village recruiting people for forced labour. A dozen females, including old women and children, were tied together and taken away. During the journey, the old women were allegedly frequently beaten for their inability to keep up. Upon reaching a camp, the females were separated "by beauty". The old women and youngest girls sat under guard, while the others were taken into rooms and raped without stop for several days and denied food or sleep.

49. In another case demonstrating a continual pattern of abuse, many women of Hashuradha village in Maungdaw, Northern Rakhine State, stated in 1992 that for the past two years, soldiers had entered their homes on many occasions and raped them repeatedly.

50. Torture of detainees to extract confessions has also been reported. The torture has been said to have occurred primarily during periods of prolonged incommunicado detention and several of the security forces, including the

regular army, have allegedly been involved. The use of electric shocks, using prisoners as "motorcycles", burnings and continual beatings have been described in cases received.

51. In one reported case in Immuddinpara, Rama Musleroi, Bauthidaung, a young man returned from forced portering to find that his sister and brother had been abducted by security forces. Because he was a village headman, he believed he would be safe in approaching the army with regard to his siblings. He disappeared. About three weeks later, his body and that of his brother were found by the man's wife. His genitals had been cut off, his eyes gouged out, both hands cut off and his torso had been sliced in two.

52. Cruel, inhuman or degrading treatment has also been reported during periods of detention. Deprivation of food, sleep and light have been reported in various cases. Situations of forced portering have been described as including almost constant cruel and inhuman treatment. Forcing persons to bear undue weights, to withstand physical conditions without proper food and clothing, lack of medical attention if porters fall ill and the constant use of ankle chains have been reported.

D. Summary or arbitrary execution

53. Information concerning numerous well-documented cases of summary and arbitrary execution alleged to have occurred in Myanmar, and particularly affecting the Muslim people of Northern Rakhine State, has been received at the Centre for Human Rights. In some cases, trials are said to have been held; however, reports indicate that many trials have been carried out without the proper judicial guarantees. In other cases, no trial has been held. One such report alleges that, on 20 September 1991, in Law Kyar Village, Phru So, Kayah State, a young man was summoned by Burma Infantry Regiment No. 102. The soldiers allegedly accused him of being a rebel agent, took him into the forest and executed him.

54. Large numbers of reported cases of arbitrary executions allegedly occurred in the context of forced portering. In reports received from Kiladaung Village, Maungdaw, Northern Rakhine, numerous persons who tried to escape were beaten or shot to death. It is alleged that porters are always threatened that if they escape their families will be killed.

55. Other arbitrary executions have been reported in the context of forced relocations of persons, sometimes entire villages. In one case received, villagers from Ludengpara, Buthidaung, were forced by soldiers to move out of the village in February 1992. Over 120 women, many with children, were tied together and moved. Along the way, many of the women could not continue and children began to cry. It is alleged that crying babies and children were taken from the mothers and thrown over the roadside. Over 20 children were allegedly lost in one night.

VI. PRELIMINARY OBSERVATIONS AND RECOMMENDATIONS

A. Preliminary observations

56. Since the Special Rapporteur intends to visit Myanmar and the bordering States in December, it is not feasible to reach conclusions for the present report on the many allegations on violations of human rights that have been reported to him. The initial written exchange with the Government, however, allows for preliminary observations as to that material. It is hoped that information gathered during the Special Rapporteur's visit, as well as continued dialogue with the Government of Myanmar, will facilitate conclusions to be included in the Special Rapporteur's comprehensive report to the forty-eighth session of the Commission on Human Rights.

57. By note verbale, the Government informed him that, by SLORC Order No. 12/92, Martial Law Orders 1/89 of 17 July 1989 and 2/89 of 18 July 1989, investing certain military commanders within their respective military regions with executive and judicial powers, had been rescinded. It also indicated that by SLORC Order No. 10/92 of 10 September 1992 the curfew imposed from 11 p.m. to 4 a.m. had been lifted.

58. The Special Rapporteur has also been informed that other SLORC Orders still in effect include, inter alia, 1/91, prohibiting civil servants from participating in politics and their dependents or persons under their guardianship from participating directly or indirectly in activities aimed at opposing the Government; 2/88, prohibiting the assembly of five or more persons; and 3/90, relating to the right to assemble and campaign, which forbids criticism of authorities or the defence forces, insults to SLORC and solidarity of the national races, which may be punishable by up to three years in prison and a fine. Order No. 6/90 of October 1990, bans all unlawful Sangha (Buddhist monk) organizations except the nine sects of Sanghas and has made action possible against political parties for the "misuse" of religion for political purposes. In addition, the 1962 Printers' and Publishers' Law, as amended by SLORC in July 1989, remains in effect. Under this law, "legal organizations that have registered and that wish to print and publish documents, books and printed material, will have to register with the Ministry of Home and Religious Affairs and apply for exemption in accordance with the 1962 Printers' and Publishers' Law". All material is prohibited that opposes the SLORC, the regional LORC at different levels, or the Government; insults, slanders or attempts to divide the defence forces; instigates actions that affect law and order and peace and tranquillity; or contradicts the orders that have been issued whenever necessary. The 1975 State Protection Act, as amended in August 1991 by SLORC, remains in effect. It allows the State to detain without trial for up to five years any person "who will do, is doing or has done, an act that endangers the peace of most citizens or the security of the State, or the sovereignty of the State". The 1950 Emergency Provisions Act remains and allows for the imprisonment for up to seven years of any person who either "infringes upon the integrity, health, conduct and respect of state military organizations and government employees", "spreads false news about the Government" or "disrupts the morality or the behaviour of a group of people".

59. With regard to the memorandum addressed to the Government of Myanmar (see para. 33), it should be noted that the fourth section, concerning the Muslim population of Northern Rakhine State, was not directly answered. The response indicates that the Constitutions of 1947 and 1974, which contain adequate provisions for all citizens to profess the religion of their choice, are no longer operative. No other legal basis attesting to the existence of religious tolerance or freedom in Myanmar has been detailed. Further, although the Special Rapporteur appreciates the constitutional safeguards presented, it should be noted that while the Constitution accords rights and protections regarding religious freedoms to all "citizens", the response of the Government (appendix, para. 36) elucidates that "those Muslims of Bengali stock living on the Myanmar-Bangladesh border are not Myanmar citizens according to the Myanmar Citizenship Law". The Special Rapporteur hopes that further exchanges with the Government of Myanmar will shed light on the legal status, rights and protections of the Muslim population of Northern Rakhine State. With regard to the de facto situation of the Muslim population, while the Special Rapporteur also appreciates the statement of the Government that "many national races ... have lived together in amity and harmony for a long time" and that the fact that "the four major religions have existed and flourished in peace is an eloquent testimony to the existence of religious freedom in Myanmar", the situation of 250,000 Muslim refugees in Bangladesh who refuse to return to Myanmar without adequate international monitoring of a safe return and reinstallation continues to be a matter of concern to the Special Rapporteur and he looks forward to an ongoing dialogue with the Government on the question.

60. With regard to the question of "matters concerning arrests or detention and trial of cases", the Special Rapporteur wishes to note that again the question posed by him was not specifically answered. The Code of Criminal Procedure and the criminal procedures used in detentions and trials of cases as detailed in the response of the Government are not the authority upon which any of the persons listed in annexures F or G were detained or tried. All of the listed persons were detained under section 5 (j), (a) or (b) of the Emergency Provision Act of 1950 or section 17 (1) of the Unlawful Association Act. In the Government's response, the Law Safeguarding the State against the Dangers or Subversive Elements of 1975 was not detailed and its role in any actual detentions and trials was not explained. The Special Rapporteur looks forward to an ongoing dialogue with the Government on further questions of laws regarding arrests, detentions, restrictions and trials and hopes that a copy in English of the Emergency Provisions Act will be provided to him.

B. Preliminary recommendations

61. The Special Rapporteur congratulates the Government of Myanmar on its recent accession to the four Geneva Conventions of 1949 and urges the Government to sign and ratify Protocol II additional to the Geneva Conventions of 1949 Relative to Conflicts of a Non-International Character and Protocol I Relative to Armed Conflicts of an International Character.

62. The Special Rapporteur further urges the Government of Myanmar to sign and ratify the Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the Optional Protocol to the Covenant on Civil and Political Rights, as well as the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

63. The Special Rapporteur encourages the Government of Myanmar, in a spirit of humanitarian goodwill, to invite the presence in Myanmar of the International Committee of the Red Cross and the United Nations High Commissioner for Refugees in order to carry out their purely humanitarian tasks.

64. The Special Rapporteur urges the Government of Myanmar to continue its policy of allowing Daw Aung San Suu Kyi to receive visits from her family and to receive all resources necessary for her well-being. The Special Rapporteur encourages the Government to extend this policy to other persons in detention or restriction.

Notes

1/ State Law and Order Restoration Council Chairman, Commander-in-Chief of the Defence Services, General Saw Maung's Addresses, p. 29.

2/ Nicaragua v. U.S.A., Merits, I.C.J Reports 1986, p. 114, paras. 215 and 218, citing Corfu Channel, Merits, I.C.J. Reports 1949, p. 22.

APPENDIX

Memorandum on the human rights situation in Myanmar by the Government of Myanmar

A. Preparations for the National Convention

1. Preparations are now in full swing for the convening of the National Convention in order to lay down the basic principles for the drafting of a firm and strong constitution.

2. In accordance with the programme of action spelt out in its Declaration No. 1/90 of 27 July 1990, the Government issued Declaration No. 11/92 on 24 April 1992, which maps out the programme to be implemented in a specific time-frame in respect of the National Convention that will set out the basic principles for a new constitution (annex A).

3. In accordance with the programme of implementation, a 15-member Steering Committee was established on 28 May 1992 by Notification No. 35/92. (Please see annex B for members of the Steering Committee.) With a view to holding the Coordination Meeting for the convening of the National Convention, Order No. 9/92 was issued on 28 May 1992. It sets out the number of elected representatives of the lawfully existing political parties to attend the Coordination Meeting. It also sets out duties to be carried out by the Steering Committee for the successful holding of the Coordination Meeting (annex C).

4. The Coordination Meeting met in June and July to discuss and coordinate the category and number of delegations to be invited to the National Convention. It completed its coordination work on 10 July 1992. General agreement was reached at the Coordination Meeting that elected representatives, representatives of the political parties, the national races, peasants, workers, the intelligentsia and technocrats, civil service personnel and specially invited persons are to be included to participate in the National Convention. Terrorist groups that renounce the path of armed struggle and return to the legal fold will also have an opportunity to participate. There is also complete convergence of views that the constitution to be drafted should uphold and safeguard the following three main national causes:

(a) Non-disintegration of the Union;

(b) Non-disintegration of national solidarity;

(c) Perpetuation of national sovereignty.

5. The National Convention is expected to be convened at the end of the year or by the beginning of 1993 at the latest.

6. In order that the National Convention may be convened systematically, successfully and smoothly, an 18-member Convening Commission for the National Convention has been formed by Order No. 13/92 of 2 October 1992 setting out the duties and functions of the Commission (annex D).

7. The Convening Commission, in order to carry out its duties and functions more effectively and successfully, formed a 36-member Management Committee for Convening the National Convention on 15 October 1992 (annex E).

B. Members of political parties against whom action has been taken during 1992 and list of persons in detention and those released during 1992

8. For members of political parties against whom action has been taken during 1992, please see the table in annex F.

9. For the list of persons in detention and of those released during 1992, please see the table in annex G.

[The above-mentioned lists are maintained by the secretariat and are available for consultation upon request. The Government indicated that action against 6 persons had been taken in 1992 and that out of 68 persons in detention in 1992, 29 were still in detention and 39 had been released. Note by the secretariat.]

Matters concerning arrests or detention and trial of cases

(a) Arrest and detention

10. In the Union of Myanmar, arrest or detention of a person is made in accordance with the provisions contained in the Code of Criminal Procedure. Under section 54 of the Code any police officer may, without an order from a magistrate and without a warrant, arrest any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned. Therefore, a police officer may not arrest a person without an order or a warrant from a magistrate for an offence that is not cognizable.

11. However, under section 61 of the Code of Criminal Procedure no police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a magistrate under section 167, exceed 24 hours exclusive of the time necessary for the journey from the place of arrest to the police station, and from there to the magistrate's court.

12. Whenever a person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of 24 hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer-in-charge of the police station or the police officer making the investigation shall immediately submit to the nearest magistrate a copy of the diary of the case, and shall, at the same time, forward the arrested person to such magistrate. The magistrate may authorize the detention of the arrested person in custody for not more than 15 days in the case of an arrested person accused of an offence punishable with imprisonment for a term of less than seven years. If the offence is one punishable with imprisonment for a term of not less than seven years, the total period of detention shall, in no case, exceed a total of 30 days.

(b) Right of the accused while in custody

13. During the investigation by the police the arrested and detained person has the right to engage a lawyer, if he so desires. Under paragraph 1198 (3) of the Myanmar Police Manual, the arrested and detained person may, while in police custody, meet and seek advice from his lawyer or his relatives and friends. He may be provided with food of his liking by his relatives and friends.

14. Under section 496 of the Code of Criminal Procedure, he has the right to apply for granting of bail to the police officer either through his lawyer or by himself during the investigation by the police. If the offence alleged against him is a bailable one according to the second schedule of the said Code he shall, as of right, be released on bail. Even in non-bailable cases mentioned in the above schedule the arrested and detained person has the right to apply freely for bail to the magistrate concerned during the police investigation and the court may grant him bail according to the merits of the case. Even in cases where a person is accused of an offence punishable with death or transportation for life, the Court may grant bail to him if there is no ground to believe that he is guilty of such an offence.

15. If there is no case against the arrested and detained person he shall be released. If a case is made against him, he is sent up for trial to the court concerned.

(c) Courts and judicial principles

16. The courts in Myanmar are constituted under the Judiciary Law of 1988, in the following order:

(a) The Supreme Court;

(b) State or divisional court;

(c) District court;

(d) Township court.

An appeal or revision of any judgement or order of the township court goes to the state or divisional court, or the district court; an appeal or revision of the judgement or order of the state or divisional court, or the district court goes to the Supreme Court.

17. The administration of justice in Myanmar is based on the following principles:

(a) Administering justice independently according to the law;

(b) Protecting and safeguarding the interests of the people and aiding in the restoration of law and order and peace and tranquillity;

(c) Educating the people to understand and abide by the law and cultivating in the people the habit of abiding by the law;

(d) Working within the framework of law for the settlement of cases;

(e) Dispensing justice in open court unless otherwise prohibited by law;

(f) Guaranteeing in all cases the right of defence and the right of appeal under the law;

(g) Aiming at reforming moral character in meting out punishment to offenders.

(d) Trial of cases

18. After completion of investigation by the police within the 30 days allowed by section 167 of the said Code, the case is sent up for trial to the Court concerned. The accused has the right under section 340 of the said Code to engage a lawyer for his defence if he has not done so during investigation by the police. If the accused has not been granted bail during investigation he may apply again for bail to the trial court.

19. Procedures for trial of cases differ according to the classification of cases. Cases are classified as summons and warrant cases. Summons cases are those cases relating to an offence punishable with imprisonment for a term not exceeding six months. Warrant cases are those cases relating to an offence punishable with death, transportation or imprisonment for a term exceeding six months.

20. Summons cases not being of a serious nature are mostly adjudicated the day the cases are sent up for trial.

21. The procedure for trial of warrant cases is prescribed in chapter XXI of the Code of Criminal Procedure. In a warrant case the evidence produced in support of the prosecution is first taken and the accused has the right to cross-examine each and every witness so produced. If a prima facie case is made a formal charge is framed against the accused. After the charge is

framed the accused has the right to recall and cross-examine for the second time any of the prosecution witnesses examined previously by the prosecution and the defence. Then the accused has the right to give evidence on his own behalf and produce witnesses in his support. Except as otherwise expressly provided all evidence shall be taken in the presence of the accused or when personal attendance is dispensed with under the Code of Criminal Procedure in the presence of his counsel.

22. When the accused is examined, the whole of the examination, including every question put to him and every answer made by him, shall be recorded in full and such record shall be shown or read to him, or if he does not understand the language, shall be interpreted to him in a language which he understands and he shall be at liberty to explain or add to his answers. The court may at any stage of the trial put any question to the accused and when he declines to give evidence the court may ask questions generally. The accused will not render himself liable to punishment if he refuses to answer or give false answers. No oath is given when he declines to give evidence on his own defence. Any person aggrieved by an order of the trial court may appeal against such order to the relevant appellate court.

23. Under section 403 of the said Code a person who has once been tried by a court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence.

(e) Trial of cases by military tribunals

24. With a view to more effectively carrying out security tasks ensuring the rule of law and prevalence of peace and tranquillity military tribunals were formed in 3 of the 10 military regions in Myanmar under Martial Law Order No. 1/89 dated 17 July 1989 by the State Law and Order Restoration Council.

25. The procedure for the trial of cases by the military tribunals was prescribed under Martial Law Order No. 2/89 dated 18 July 1989 by the State Law and Order Restoration Council for speedy disposal of criminal cases.

26. Only those cases which affect the security, rule of law and peace and tranquillity of the State and also cases that affect the moral character of the people are tried by military tribunals. The number of cases tried by the military tribunals compared to criminal cases tried by civil courts is negligible. Later, martial law power exercised in various townships where the rule of law and maintenance of peace and tranquillity have improved was revoked township by township.

27. In view of the improvement and stability of the general situation in the State and in view of the interest of the people, the State Law and Order Restoration Council has now revoked all the Martial Law Orders by Order No. 12/92 on 26 September 1992. As a result, at present all cases are being tried by civil courts.

(f) Law safeguarding the State

28. In order to prevent the infringement of the sovereignty and security of the State or public peace and tranquillity and to safeguard the State against the dangers of subversive elements, the Law Safeguarding the State against the Dangers of Subversive Elements was enacted in 1975. Under this Law the Council of Ministers may pass an order as may be necessary restricting any fundamental right of a citizen if there are reasons to believe that he has committed or is committing or is about to commit any act which infringes the sovereignty and security of the State or public peace and tranquillity. To exercise such power the Council of Ministers has formed a Central Body consisting of the Minister for Home Affairs, the Minister for Defence and the Minister for Foreign Affairs. The policies and guidelines to be adhered to in restricting the fundamental rights of citizens are laid down in section 9 of the Law.

29. The Central Body in passing restriction orders for safeguarding the State against dangers has the following powers:

(a) Arresting and detaining a person against whom action is taken for a period not exceeding 60 days at a time up to a total of 180 days;

(b) Restraining a person against whom action is taken up to one year.

If it becomes necessary to extend the period of detention or restraint, the Central Body may be authorized by the Council of Ministers to detain or restrain a person for a period not exceeding one year at a time up to a total of five years.

30. A person may be restrained under the aforesaid Law in the following manner:

(a) Prescribing the area within which he shall not reside;

(b) Prescribing the area in which he shall reside;

(c) Restricting his movements, as may be necessary;

(d) Prohibiting the possession or use of articles prescribed.

C. Myanmar's accession to the four Geneva Conventions

31. On 24 August 1992, Myanmar acceeded to the four Geneva Conventions of 1949.

32. We are making an in-depth consideration of the provisions in the two Additional Protocols to the four Geneva Conventions.

33. Myanmar is not yet a party to the Covenants on Civil and Political Rights and on Social, Cultural and Economic Rights and the Convention on Torture.

D. Muslim people of Northern Rakhine State

(a) Residency status under law

34. Among the Muslims of Bengali stock living along the border area in the Rakhine State there are those who hold registration cards issued in accordance with the 1949 National Registration Act for those living within the Union of Myanmar. There are also those who are listed in the list of household members without, however, possessing any registration cards.

35. The national registration card does not determine the citizenship of the holder of the card. It is a certificate that establishes the identity of the holder and the fact that he resides within the Union of Myanmar.

36. Those Muslims of Bengali stock living on the Myanmar-Bangladesh border are not Myanmar citizens according to the Myanmar Citizenship Law. They have guest status with the right to apply for citizenship. In order to become a citizen, they must apply for citizenship in accordance with the relevant provisions of the Citizenship Law. According to the Election Law of the Pyithu Hluttaw, they have the right to vote without, however, the right to be elected.

(b) Legal provisions that determine residency status

37. The legal provisions that determine the status of citizenship are governed by the 1948 Citizenship Act (concerning the choice to become a Myanmar citizen) and the 1948 Union of Myanmar Citizenship Act, which have been revoked, and the Myanmar Citizenship Law of 15 October 1982, which is still in force.

(c) Laws that provide for freedom of religious belief and religious expression

38. Both the 1947 and 1974 Constitutions contained adequate provisions for all citizens to profess the religion of their choice. Although the two Constitutions have become inoperative, the fact that many national races of different faiths in Myanmar have lived together in amity and harmony for a long time and that the four major religions have existed and flourished in peace is an eloquent testimony to the existence of religious freedom in Myanmar.

39. People of Islamic faith have never been subjected to persecution, torture or discrimination in Myanmar, which is predominantly Buddhist. They have lived harmoniously with the national races of different faiths. The General Secretary of All Myanmar Moulvis Headquarters, in addressing about 350 Muslims who had gathered at the Zafar Shah Mosque in Dagon Township, Yangon, on 24 July 1992, recounted from his personal experience after visiting the border area that there was no persecution of Muslims in Rakhine State. The authorities, for their part, have taken adequate measures in order that the people of Islamic faith are treated on an equal footing with other faiths. For instance, Id al-Adha is designated as one of the official holidays of

Myanmar and the religious organizations of Islamic faith are allowed to broadcast their sermons over the Myanmar radio and television on that day. The authorities have never failed to extend necessary facilities to the people of Islamic faith in Myanmar.

40. In February of this year, the Minister for Religious Affairs attended the ceremony held for the laying of cornerstones for the annex to the Muslim Home for the Aged Women of Cholia Muslim Religious Fund Trust. When copies of the Holy Koran imported by the Amin Hawa Waqf were distributed in March of this year to the representatives of various states and divisions, the Minister for Religious Affairs himself honoured with his presence the ceremony held for that purpose. The then-Chairman of the State Law and Order Restoration Council also sent a special message to that ceremony.

41. In May 1992, 200 Hajj pilgrims went to Makkah and the authorities provided the necessary assistance both before and after the pilgrimage.

42. The Chairman of the State Law and Order Restoration Council General Than Shwe on 8 July 1992 sent a message to Myanmar hajjis at the ceremony to honour Hajj pilgrims organized by the Amin Hawa Waqf of the Islamic Religious Welfare Foundation. In his message he stated that "the people of Myanmar Naing-Ngan have enjoyed religious freedom as an inalienable right since the time of their forefathers and so the peoples of the different faiths have been living in unity here because every citizen realizes this very well". At another ceremony, held on 9 July 1992 to honour Hajj pilgrims of 1992 and organized by the Myanmar Muslim National Affairs Organization, the Chairman of the State Law and Order Restoration Council General Than Shwe sent a second message to Myanmar hajjis. In his second message he stated that "Myanmar history shows that all nationals in Myanmar have lived together in weal and woe and enjoyed freedom in the profession of whatever religious faith he or she believes".

43. Myanmar hajjis recounted their experience in Cholia Hall in Pabedan, Yangon, on 25 July. The Chairman of the Myanmar Muslim National Affairs Committee speaking on that occasion spoke of the freedom of religion in Myanmar, citing as an instance the Government's permission for the Hajj pilgrimage to Saudi Arabia. The Myanmar Muslim National Affairs Committee General Secretary also elaborated some points regarding the freedom of faiths in Myanmar and called on those who had fled to Bangladesh not to believe unfounded reports of the foreign media and to come back to their own region.

44. While the authorities in Myanmar are making every effort to fulfil the religious needs of the Islamic faith in Myanmar, Islamic organizations for their part are endeavouring to strengthen friendly ties between the Islamic faith and other religions. One such event took place in Mandalay in March 1992 under the sponsorship of the Myanmar Muslim National Affairs Organization of the Union of Myanmar. It was a get-together of all religions for the Upper Myanmar Zone. The get-together was attended by, in addition to the representatives of the sponsoring organization, representatives of Buddhist, Muslim and Hindu organizations, as well as by the Deputy Commander

of the Central Command and the Secretary of the Mandalay Division Law and Order Restoration Council.

45. At the 74th General Meeting of the Myanmar Naing-Ngan Christian Council, held in conjunction with a get-together to honour the Minister for Religious Affairs, Maj.-Gen. Myo Nyunt, held in May 1992 at Myanmar Naing-Ngan Institute of Christian Theology on Seminary Hill in Insein Township, the Chairman of the Christian Council thanked the State for religious freedom in the country.

46. The Minister for Religious Affairs, speaking on that occasion, said that all citizens were free to profess the religion of their choice, practise and preserve their own language, literature, traditions and customs and culture and to make efforts for their own religious code of conduct and ethics to flourish. He also pointed out that the Government was at present providing all-round assistance to all the religions and was also helping to solve their problems. He said that monetary assistance was also provided to Christians like the rest of the people of other religions. He also disclosed that books on Christian religious literature were permitted to be published in accordance with policy and that religious meetings, discussions and training courses were permitted to be held.

47. At a Hindu traditional ceremony of offering Mingaladipa lights of Goddess Lakshmi held in Yangon on 26 July 1992, the Minister for Religious Affairs, who attended the ceremony, stated that the Government was providing monetary assistance to support Hinduism and that the Religious Affairs Department was making arrangements for Hindu religious activities. He stated on that occasion that freedom to profess the faith of one's choice enjoyed by all nationals in Myanmar and the assistance provided by the Government were an offshoot of "metta" (loving kindness).

(d) Reasons for the flow of Muslim people from Rakhine State to Bangladesh

48. Since the firt Anglo-Myanmar War in 1824 Muslims of Bengali stock had entered Rakhine State illegally from across the border. After annexation of Myanmar Naing-Ngan the British Administration adopted a policy of liberalizing immigration regulations in order to import labour from India to Myanmar with the result that there was an exodus of people from the Indian subcontinent to settle in Myanmar. Over the course of years, the number of such immigrants increased, culminating in illegal settlements creating problems for the local populace. Recently the immigration officials conducted routine checking of the national registration cards in the area. Those who did not want to submit themselves to examination of their registration cards fled to the other side of the border. Among those who fled were mostly poor people who were lured by stories that relief food and goods were being distributed on the other side. Some left because they had been threatened by terrorist insurgents to burn down their houses. There were also those who left after having committed crimes.

(e) Aggravation of the problem

49. The problem was exacerbated in 1991 by the broadcasts made by the BBC and the Voice of America and by certain foreign media that carried exaggerated and distorted news concerning the situation at the Rakhine-Bangladesh border. In addition, some people with biased views, within and outside the country, also spread false and exaggerated news, creating a wedge not only between Myanmar and Bangladesh but also among the Muslim community, thereby aggravating the problem.

(f) Bilateral solutions undertaken by the Government of Myanmar to stop the movement of these people to Bangladesh

50. Myanmar has faithfully carried out the Myanmar-Bangladesh Agreement on Border Arrangements and Cooperation of December 1980 and the Border Ground Rules.

51. In keeping with the Agreement, border area supervision bodies were formed to prevent undesirable incidents on the border. The agreed rules govern border-crossing, black-marketeering and illegal trading and subversive activities, hot pursuit of insurgents across the border and so on. On 7 February 1981, the Government of Myanmar issued procedures to be followed regarding Myanmar-Bangladesh border affairs. Therefore, an adequate mechanism is in place to tackle bilaterally any problem that may arise between the two countries.

52. In November 1991, the Bangladesh Foreign Minister Mostafizur Rahman visited Myanmar to discuss the problem of those who had fled to Bangladesh and all related aspects of the matter with Foreign Minister U Ohn Gyaw.

53. The slander campaign by foreign public media was stepped up perceptibly, especially after the visit of the Bangladesh Foreign Minister, prompting Myanmar authorities to respond to their biased and unsubstantiated reports and broadcasts. On 16 January 1992 and on 21 February 1992, the Ministry of Foreign Affairs issued press releases to put the matter in its true perspective (annex H). On 19 March 1992, Minister for Foreign Affairs U Ohn Gyaw held a special press conference regarding the Myanmar-Bangladesh border situation and explained the true situation at the border as well as Myanmar's stance on the matter (annex I).

54. On 29 March 1992, the Minister for Foreign Affairs and the Deputy Minister for Information took foreign ambassadors, military attachés and foreign journalists on a fact-finding mission to the Myanmar-Bangladesh border area to enable them to witness the real situation prevailing there. The ambassadors, military attachés and journalists met with the local populace from 14 villages of Kyeinchaung Village Tract and raised questions concerning the situation in the area, freely and frankly.

55. The United Nations Under-Secretary-General for Humanitarian Affairs, Mr. Jan Eliasson, visited the Myanmar-Bangladesh border area in April 1992. Mr. Eliasson and his party met with the local populace and studied the situation in the border area firsthand.

56. In April 1992, a Myanmar delegation led by the Minister for Foreign Affairs U Ohn Gyaw visited Dhaka and held discussions with the Bangladesh delegation headed by Foreign Minister Mr. Mostafizur Rahman on the problem of refugees who had fled to Bangladesh from Rakhine State. The following are the salient points of the agreement reached (please see annex J for the joint statement):

(a) The two sides reiterated their firm conviction of the need to resolve the problem amicably and peacefully through bilateral negotiations on the basis of mutual understanding, accommodation, trust and goodwill and to maintain peace and tranquillity on their borders;

(b) Repatriation in batches of all persons, inter alia, carrying Myanmar citizenship identity cards/national registration cards; those able to present any other documents issued by relevant Myanmar authorities; and all those persons able to furnish evidence of their residence in Myanmar such as addresses or any other relevant particulars;

(c) Both sides agreed that repatriation should be safe and voluntary;

(d) The two Governments agreed to take all necessary measures to enhance security and tranquillity in their borders in full compliance with the Agreement on Border Arrangements and Cooperation (Border Ground Rules) signed by the two countries in 1980.

(g) How many persons have returned or been repatriated to Myanmar from Bangladesh

57. In accordance with the Agreement reached between Myanmar and Bangladesh in April 1992, five reception camps have been opened since 15 May 1992 in Maungdaw Township.

58. On 22 September 1992, nine families, consisting of 25 men and 21 women, were repatriated for the first time at Kanyin Chaung Camp on the Myanmar side. On 1 October 1992, two women were repatriated. On 12 October 1992, 34 men and 29 women were sent back to Kanyin Chaung Reception Camp. Thus a total of 111 persons have so far been repatriated.

(h) Aid provided by the Government of Myanmar to those people who have returned to Myanmar

59. Medical examinations as well as necessary medical treatment were given to those who returned. Relief goods, food, clothing, pots, pans and plates were also distributed to them. Arrangements are being made for their safe return to their homes.

E. Other recent steps taken by the Government of Myanmar in the field of human rights

60. The recent steps undertaken by the Government to create an atmosphere and conditions conducive to the establishment of a democratic system in Myanmar include the following:

(a) The suspension of all offensive operations in Kayin State and other parts of the country to consolidate national solidarity and unity;

(b) The release from detention and the lifting of restrictions of individuals against whom action had been taken under existing laws and who no longer pose a threat to the security of the country;

(c) The reopening of universities, colleges and other institutes of higher learning that had been temporarily closed;

(d) The rescinding of the curfew order in the entire country;

(e) The revocation of the Martial Law Order that had been in force since July 1989;

(f) The reconstitution of township-level Law and Order Restoration Councils that are responsible for local administration with civilian service personnel in anticipation of the future democratic administrative structure;

(g) The creation of a separate Ministry of Development of Border Areas and National Races in order to implement more effectively measures for the welfare of the national races living in the remote regions of the country.